

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ZACHARY JON LINDSAY,

Defendant.

CR 21-36-M-DLC

ORDER

Before the Court is United States Magistrate Judge Kathleen L. DeSoto's Findings & Recommendation Concerning Plea. (Doc. 31.) Because neither party objected, they are not entitled to *de novo* review. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). Therefore, the Court reviews the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Mr. Lindsay is charged with one count of prohibited person in possession of a firearm and ammunition, in violation of 18 U.S.C. § 922(g)(3) (Count I), one count of possession of an unregistered firearm, in violation of 26 U.S.C. § 5861(d) (Count II), one count of possession of a firearm with an obliterated serial number,

in violation of 26 U.S.C. § 5861(h) (Count III), and one count of possession of a firearm with an obliterated serial number, in violation of 18 U.S.C. § 922(k) (Count IV). (Doc. 2.) Judge DeSoto recommends that this Court accept Mr. Lindsay's guilty plea as to Count II after he appeared before her pursuant to Federal Rule of Criminal Procedure 11. The Court finds no clear error in Judge DeSoto's Findings and Recommendation and adopts them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report. In light of the United States motion preliminary order of forfeiture (Doc. 33), the Court will address the issue of forfeiture by separate order.

Accordingly, IT IS ORDERED that Judge DeSoto's Findings and Recommendation (Doc. 31) is ADOPTED in full.

IT IS FURTHER ORDERED that Mr. Lindsay's motion to change plea (Doc. 22) is GRANTED.

IT IS FURTHER ORDERED that Mr. Lindsay is adjudged guilty as charged in Count II of the Indictment.

DATED this 8th day of November, 2021.



---

Dana L. Christensen, District Judge  
United States District Court